

3. The panel shall make recommendations to the department regarding the establishment of civil penalties and procedures to assess and collect penalties, as provided in section 206.19. The panel may propose a schedule of penalties for minor and serious violations. The department may adopt rules based on the recommendations of the panel as approved by the secretary.

4. The panel shall review cases of persons required to be licensed as commercial applicators who are subject to civil penalties as provided in section 206.19 according to rules adopted by the department. A review shall be performed upon request by the secretary or the person subject to the civil penalty. The panel may establish procedures for the review and establish a system of prioritizing cases for review, consistent with rules adopted by the department. The rules may exclude review of minor violations. The review may also include the manner of assessing and collecting the civil penalty. The findings and recommendations of the panel shall be included in a response delivered to the department and the person subject to the penalty. The response may include a recommendation that a proposed civil penalty be modified or suspended, that an alternative method of collection be instituted, or that conditions be placed upon the license of a commercial applicator.

5. The department shall adopt rules establishing a period for the review and response by the panel which must be completed prior to a contested case hearing under chapter 17A. A hearing shall not be delayed after the required period for review and response, except as provided in chapter 17A.

6. This section does not apply to a license revocation proceeding. This section does not require the department to delay the prosecution of a case if immediate action is necessary to reduce the risk of harm to the environment or public health or safety. This section also does not require a review or response if the department refers a violation of this chapter for criminal prosecution, or for an action involving a stop order issued pursuant to section 206.16. The department shall consider any available response by the panel, but is not required to change findings of an investigation, a penalty sought to be assessed, or a manner of collection.

7. An available response by the panel may be used as evidence in an administrative hearing, or a civil or criminal case, except to the extent that information is considered confidential pursuant to section 22.7.

Approved May 12, 1993

CHAPTER 131

STATE FINANCES — DEPOSIT AND USE OF DESIGNATED MONEYS

H.F. 669

AN ACT requiring that certain moneys shall be credited to and deposited in the general fund of the state and shall be used for the purposes for which the moneys were collected and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 8.60 USE OF DESIGNATED MONEYS.**

Moneys credited to or deposited in the general fund of the state on or after July 1, 1993, which under law were previously collected to be used for specific purposes, or to be credited to, or be deposited to a particular account or fund shall only be used for the purposes for which the moneys were collected, including but not limited to moneys collected in accordance with any of the following provisions:

1. Pari-mutuel regulation fund created in section 99D.17.

2. Gamblers assistance fund pursuant to section 99E.10, subsection 1.
3. Excursion boat gambling special account pursuant to section 99F.4, subsection 2.
4. Milk fund created in section 192.111.
5. Dairy trade practices trust fund pursuant to section 192A.30.
6. Commercial feed fund created in section 198.9.
7. Fertilizer fund created in section 200.9.
8. Pesticide fund created in section 206.12.
9. Motor vehicle fraud account pursuant to section 312.2, subsection 13.
10. Public transit assistance fund pursuant to section 312.2, subsection 15, and section 324A.6.
11. Salvage vehicle fee paid to the Iowa law enforcement academy pursuant to section 321.52.
12. Railroad assistance fund created in section 327H.18.
13. Special railroad facility fund created in section 327I.23.
14. State aviation fund created in section 328.36.
15. Marine fuel tax fund created in section 452A.79.
16. Public outdoor recreation and resources fund pursuant to section 461A.79.
17. Energy research and development account created in section 473.11, enacted in 1993 Iowa Acts, Senate File 74.*
18. Utilities trust fund created in section 476.10.
19. Banking revolving fund created in section 524.207.
20. Credit union revolving fund created in section 533.67.
21. Professional licensing revolving fund created in section 546.10.
22. Administrative services trust fund created in section 546.11.

Sec. 2. Section 99D.17, unnumbered paragraph 2, Code 1993, is amended to read as follows:
Notwithstanding the provisions of this section directing that funds received be deposited into the pari-mutuel regulation fund, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ all funds received shall be deposited into the general fund of the state.

Sec. 3. Section 99E.10, subsection 1, paragraph a, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this lettered paragraph, directing that a portion of gross lottery revenues be deposited into the gamblers assistance fund or the provisions of section 99F.11 directing that a portion of the adjusted gross receipts under chapter 99F be deposited into the gamblers assistance fund, ~~for the fiscal period beginning July 1, 1991, and ending June 30, 1993,~~ moneys that were to be deposited into the gamblers assistance fund pursuant to this lettered paragraph and section 99F.11, subsection 3, shall be deposited into the general fund of the state.

Sec. 4. Section 99F.4, subsection 2, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection and sections 99F.10 and 99F.17 directing that all license and admission fees be paid to the commission or be deposited into a special account, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ all fees shall be deposited into the general fund of the state.

Sec. 5. Section 192.111, subsection 3, paragraph c, Code 1993, is amended to read as follows:

c. Notwithstanding the provisions of paragraph "a", and sections 192.133, 194.14, 194.19, 194.20, and 195.9 directing that fees collected and appropriations made for dairy control be deposited into the milk fund, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ all fees collected under those sections shall be deposited into the general fund of the state. All moneys deposited in the general fund under this section shall be appropriated for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and chapters 194 and 195. Such appropriations shall not be deposited into the milk fund.

*Chapter 11 herein

Sec. 6. Section 192A.30, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section, fees paid to the secretary shall not be deposited into the dairy trade practices trust fund for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, but shall be deposited into the general fund of the state.

Sec. 7. Section 198.9, subsection 3, unnumbered paragraph 4, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection directing that fees collected be deposited into the commercial feed fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all fees collected shall be deposited into the general fund of the state.

Sec. 8. Section 200.9, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and section 201.13 directing that those fees collected under sections 200.4 and 200.8 and moneys received under chapter 201 be deposited into the fertilizer fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all such fees and moneys shall be deposited into the general fund of the state. Moneys received under chapter 201 and deposited into the general fund of the state as a result of this paragraph are appropriated for purposes of section 201.13.

Sec. 9. Section 206.12, subsection 3, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection directing that fifty dollars of each fee collected be deposited into the pesticide fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, fifty dollars of each fee collected shall be deposited into the general fund of the state.

Sec. 10. Section 312.2, subsection 13, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection directing that twenty-five cents on each title issuance be annually credited to the department of justice for deposit into the motor vehicle fraud account, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, the twenty-five cents on each title issuance shall be deposited into the general fund of the state.

Sec. 11. Section 312.2, subsection 15, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection directing that one-twentieth of eighty percent of the revenue derived from the operation of section 423.7, be deposited into the public transit assistance fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, such amount shall be deposited into the general fund of the state. There is appropriated from the general fund of the state for each fiscal year to the state department of transportation the amount of revenues credited to the general fund of the state during the fiscal year under this subsection to be used for purposes of public transit assistance under chapter 324A.

Sec. 12. Section 321.52, subsection 4, paragraph c, unnumbered paragraph 3, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this lettered paragraph directing that five dollars of each fee be paid to the Iowa law enforcement academy, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, such five dollars shall be deposited into the general fund of the state.

Sec. 13. Section 324A.6, subsection 1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and section 312.2, subsection 15, directing that moneys be deposited into the public transit assistance fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all such moneys under these sections shall be deposited into the general fund of the state. There is appropriated during this fiscal period

from moneys received by the department by agreements, grants, gifts, or other means and deposited into the state general fund as a result of this paragraph to the department for purposes of this subsection. Moneys appropriated from the general fund under this paragraph and section 312.2, subsection 15, shall not be deposited into the public transit assistance fund.

Sec. 14. Section 327H.18, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and sections 327I.7, subsection 14, and 327H.20 directing that moneys received or reimbursements made be deposited into the railroad assistance fund, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ such moneys shall be deposited into the general fund of the state and ~~for that period~~ all moneys received by the department by agreements, grants, gifts, or other means which were deposited into the state general fund as a result of this paragraph are appropriated for state railroad assistance under this chapter. Such appropriations shall not be deposited into the railroad assistance fund.

Sec. 15. Section 327I.23, subsection 3, Code 1993, is amended to read as follows:

3. Notwithstanding the provisions of section 327I.7, subsection 14, and section 327I.26 and other provisions of law directing that moneys be deposited into the special railroad facility fund and directing that moneys in the fund be appropriated for purposes of the authority, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ all moneys directed to be deposited in the fund shall be deposited into the general fund of the state and ~~during that period~~ all moneys received under subsection 2 are appropriated to the authority for purposes of subsection 2 and other moneys appropriated to the authority may be used for purposes of this section.

Sec. 16. Section 328.36, unnumbered paragraph 4, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and sections 452A.82 and 328.21, directing that moneys remaining after the cost of administering the aviation fuel tax fund and money received by the department be deposited into the state aviation fund, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ such moneys shall be deposited into the general fund of the state and refunds under section 328.24 ~~during that period~~ shall be paid from the state general fund of the state.

Sec. 17. Section 452A.79, unnumbered paragraph 3, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and section 452A.84 directing that certain moneys be transferred or deposited into the marine fuel tax fund, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ such moneys shall be deposited into the general fund of the state.

Sec. 18. Section 461A.79, subsection 4, Code 1993, is amended to read as follows:

4. Notwithstanding any other provision of law, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ moneys to be credited to or deposited in the public outdoor recreation and resources fund shall be credited to or deposited to the general fund of the state and appropriations made for purposes of this section shall not be deposited into the public outdoor recreation and resources fund but shall be allocated as provided in this section.

Sec. 19. Section 473.11, subsection 1, paragraph f, unnumbered paragraph 2, as enacted by the 1993 Iowa Acts, Senate File 74,* section 1, is amended to read as follows:

Notwithstanding the provisions of this paragraph directing that moneys be deposited into the energy research and development fund, ~~for the fiscal period beginning July 1, 1991, and ending June 30, 1993,~~ all moneys shall be deposited into the general fund of the state.

Sec. 20. Section 476.10, unnumbered paragraph 4, Code 1993, is amended to read as follows:

Whenever the board shall deem it necessary in order to carry out the duties imposed upon it in connection with rate regulation under section 476.6, investigations under section 476.3, or review proceedings under section 476.31, the board may employ additional temporary or

*Chapter 11 herein

permanent staff, or may contract with persons who are not state employees for engineering, accounting, or other professional services, or both. The costs of these additional employees and contract services shall be paid by the public utility whose rates are being reviewed in the same manner as other expenses are paid under this section. ~~For the fiscal period beginning~~ Beginning on July 1, 1991, and ending June 30, 1993, there is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board to hire additional staff and contract for services under this section. The board shall increase quarterly assessments specified in unnumbered paragraph 2, by amounts necessary to enable the board to hire additional staff and contract for services under this section. The authority to hire additional temporary or permanent staff that is granted to the board by this section shall not be subject to limitation by any administrative or executive order or decision that restricts the number of state employees or the filling of employee vacancies, and shall not be subject to limitation by any law of this state that restricts the number of state employees or the filling of employee vacancies unless that law is made applicable to this section by express reference to this section. Before the board expends or encumbers an amount in excess of the funds budgeted for rate regulation and before the board increases quarterly assessments pursuant to this paragraph, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the expenses exceed the funds budgeted by the general assembly to the board for rate regulation and that the board does not have other funds from which the expenses can be paid. Upon approval of the director of the department of management the board may expend and encumber funds for the excess expenses, and increase quarterly assessments to raise the additional funds. The board and the office of consumer advocate may add additional personnel or contract for additional assistance to review and evaluate energy efficiency plans and the implementation of energy efficiency programs including, but not limited to, professionally trained engineers, accountants, attorneys, skilled examiners and inspectors, and secretaries and clerks. The board and the office of the consumer advocate may expend additional sums beyond those sums appropriated. However, the authority to add additional personnel or contract for additional assistance must first be approved by the department of management. The additional sums shall be provided to the board and the office of the consumer advocate by the utilities subject to the energy efficiency requirements in this chapter. The assessments shall be in addition to and separate from the quarterly assessment.

Sec. 21. Section 476.10, unnumbered paragraph 8, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and sections 478.4, 479.16, and 479A.9 directing that fees paid to the utilities division or other moneys be deposited into the utilities trust fund and not be transferred to the general fund of the state, and directing that expenses be paid from the utilities trust fund, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ all such fees and other moneys collected under those sections shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes.

Sec. 22. Section 524.207, unnumbered paragraph 6, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section directing that fees and other moneys received be deposited into the banking revolving fund and not be transferred to the general fund of the state, and directing that expenses be paid from the banking revolving fund, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ all fees and moneys collected shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes.

Sec. 23. Section 533.67, unnumbered paragraph 6, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section directing that fees and other moneys received be deposited into the credit union revolving fund and not be transferred to the general fund of the state, and directing that expenses be paid from the credit union revolving fund, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ all fees and other moneys

collected shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes.

Sec. 24. Section 546.10, subsection 6, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection and sections 542B.12, 542C.3, 543B.14, 543D.6, 544A.11, and 544B.14 directing that fees and other moneys be deposited into the professional licensing revolving fund and not to be transferred to the general fund of the state, and directing that expenses be paid from the professional licensing revolving fund, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ all fees collected under those sections shall be deposited into the general fund of the state and expenses required to be paid under this subsection shall be paid from funds appropriated for those purposes.

Sec. 25. Section 546.11, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding this section and sections 476.10, 524.207, 533.67, 546.9, and 546.10 directing the utilities division, banking division, credit union division, alcoholic beverages division, and professional licensing division to transfer from appropriated trust funds to the administrative services trust fund the division's share of administrative services and directing that costs for administrative services provided by the department to the divisions be paid from the administrative services trust fund, ~~for the fiscal period beginning on July 1, 1991, and ending June 30, 1993,~~ all expenses for administrative services shall be paid from appropriations made from the general fund of the state for these expenses.

Sec. 26. Section 556.18, subsection 1, Code 1993, is amended to read as follows:

1. ~~Except as provided in subsection 3,~~ all All funds received under this chapter, including the proceeds from the sale of abandoned property under section 556.17, shall be deposited monthly by the treasurer of state in the general fund of the state. However, the treasurer of state shall retain in a separate trust fund an amount not exceeding two hundred thousand dollars from which the treasurer of state shall make prompt payment of claims duly allowed under section 556.20. Before making the deposit, the treasurer of state shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

Sec. 27. Section 556.18, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 28. 1991 Iowa Acts, chapter 264, section 905, is amended to read as follows:
SEC. 905.

1. Notwithstanding the restrictions relating to the transfer and use of moneys in the utilities trust fund in section 476.10, the insurance revolving fund in section 505.7, the banking revolving fund in section 524.207, the credit union revolving fund in section 533.67, and the professional licensing revolving fund in section 546.10, the cash balances in those five funds resulting from covered charges to regulated industries for purposes of cash flow and the build-up of surplus balances remaining on June 30, 1991, shall be transferred to the general fund of the state. However, state general fund cash balances shall be available from the general fund of the state to the utilities division, insurance division, banking division, credit union division, and the professional licensing and regulation division for cash flow purposes to enable the timely payment of expenses without regard to seasonal cash flow ~~for the fiscal years ending June 30, 1992, and June 30, 1993. Upon completion of the fiscal year ending June 30, 1993, any amount transferred to the general fund of the state from each of those five funds shall be returned to the fund from which the amount was transferred.~~

2. Notwithstanding the restrictions relating to the use of the moneys in the fertilizer fund in section 200.9, and the pesticide fund in section 206.12, subsection 3, cash balances remaining on June 30, 1991, that are not needed to pay expenses of the fiscal year ending June 30, 1991,

are transferred to the general fund of the state. However, state general fund cash balances shall be available from the general fund of the state to the department of agriculture and land stewardship for cash flow purposes to enable the timely payment of expenses incurred for purposes for which moneys in the fertilizer and pesticide funds are to be used for the fiscal years ending June 30, 1992, and June 30, 1993. Upon completion of the fiscal year ending June 30, 1993, any amount transferred to the general fund of the state from each of those two funds shall be returned to the fund from which the amount was transferred.

Sec. 29. 1991 Iowa Acts, chapter 268, section 508, subsection 3, unnumbered paragraph 2 and lettered paragraphs a, b, c, and d, are amended by striking the unnumbered paragraph and the lettered paragraphs.

Sec. 30. CODE EDITOR. The Code editor shall submit to the general assembly through the Code editor's bills coordinating amendments to sections of the Code which make reference to those funds and accounts which as a result of the enactment of this Act will no longer have moneys credited to or deposited into them but instead the moneys will be credited to or deposited into the general fund of the state.

Sec. 31. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 12, 1993

CHAPTER 132

MILK AND MILK PRODUCTS

H.F. 675

AN ACT relating to the regulation of milk and milk products.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 192.110, Code 1993, is amended to read as follows:

192.110 RATING REQUIRED TO RECEIVE OR RETAIN A PERMIT.

A person shall not receive or retain a permit under section 192.107, unless both of the following conditions are satisfied:

1. The person has a pasteurized milk and milk products sanitation compliance rating of ninety percent or more as calculated according to the rating system as contained in the federal public health service publications, "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers 1989" and "Method of Making Sanitation Ratings of Milk Supplies, 1987 Revision"; is necessary to receive or retain a permit under section 192.107. The applicable provisions of these publications are incorporated into this section by this reference. A copy of each publication shall be on file with the department or in the office of the person subject to an inspection contract as provided in section 192.108.

2. The facilities and equipment used to produce, store, or transport milk or milk products comply with requirements of the "Grade 'A' Pasteurized Milk Ordinance, 1989 Revision" as provided in section 192.102.

Approved May 12, 1993